

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

James L. Dennis and Enid Dennis,	)	
	)	C/A No. 0:10-2693-MBS
Plaintiff,	)	
	)	
vs.	)	
	)	<b>ORDER</b>
HSBC Mortgage Services, Inc.,	)	
	)	
Defendant.	)	
_____	)	

Plaintiffs James L. Dennis and Enid Dennis, proceeding pro se, filed this action on October 19, 2010, alleging that sums due Defendant HSBC Mortgage Services, Inc. under a mortgage had been discharged in bankruptcy, and that Defendant committed fraud by commencing a foreclosure action on their residence. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pretrial handling.

This matter is before the court on motion to dismiss filed by Defendant on February 21, 2011. On February 22, 2011, an order was issued pursuant to Roseboro v. Garrison, 528 F.2d 309 (4<sup>th</sup> Cir. 1975), advising Plaintiffs of the summary judgment procedures and the possible consequences of failing to respond adequately. Plaintiffs filed a response in opposition to Defendant's motion on March 22, 2011.

On August 11, 2011, the Magistrate Judge issued a Report and Recommendation in which she recommended that the court abstain from adjudicating this matter pursuant to Younger v. Harris, 401 U.S. 37 (1971), and Colorado River Water Conservation Dist. v. United States, 424 U.S. 800 (1976). Accordingly, the Magistrate Judge recommended that the case be dismissed without prejudice. Plaintiffs filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Defendant’s motion to dismiss (ECF No. 19) is **granted**. The complaint is dismissed without prejudice.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

Columbia, South Carolina

August 31, 2011.

**NOTICE OF RIGHT TO APPEAL**

**Plaintiffs are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**